

September 12, 1977

TO: All Commissioners and Alternates
FROM: Charles R. Roberts, Executive Director

SUBJECT: PROPOSED MEMORANDUM OF AGREEMENT BETWEEN THE COMMISSION AND THE
ASSOCIATION OF BAY AREA GOVERNMENTS
(For Commission consideration on September 15, 1977)

Attached is a proposed Memorandum of Agreement (MOA) between the Association of Bay Area Governments (ABAG) and the Commission which the staff recommends the Commission authorize the Executive Director to execute on behalf of the Commission.

1. Background. As requested by Circular A-95 of the Federal Office of Management and Budget, BCDC submitted its application for a grant under the Federal Coastal Zone Management Act to ABAG for review as the federally-designated area-wide clearinghouse for the Bay Area. The ABAG Executive Committee approved the BCDC application, but on condition that BCDC enter into a memorandum of agreement with ABAG relating to their respective regional planning activities. ABAG believes that Part IV of Circular A-95 requires such an agreement.

The BCDC staff did not concur with this interpretation of Circular A-95. However, the Department of Commerce and the Environmental Protection Agency have entered into an MOA at the Federal level encouraging cooperation between agencies, such as ABAG, that are responsible for water quality maintenance planning under Section 208 of the Federal Water Pollution Control Act, and agencies, such as BCDC, that are responsible for coastal zone management. Therefore, the staff suggested to the ABAG staff that an attempt be made to draft an MOA which would be acceptable to both agencies, but which left open the question of whether it was required.

2. The Proposed MOA. The attached draft is the product of the negotiations between the two staffs. It has the following major provisions:

- a. Each agency recognizes the role and responsibility of the other;
- b. ABAG, under "Basic Agreements", agrees to make comments consistent with the McAteer-Petris Act, the San Francisco Bay Plan, and the BCDC management program, and further to incorporate into the ABAG Regional Plan, to the maximum feasible extent, the findings, policies, and criteria of the McAteer-Petris Act and the Bay Plan. BCDC, on its part, agrees to use, to the maximum feasible extent, data and information developed by ABAG and to cooperate with ABAG in developing compatible data in various areas. BCDC also agrees to use the ABAG Regional Plan as a major point of reference for regional concerns related to BCDC's responsibilities;

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- c. With regard to current environmental planning, the MOA ratifies the existing participation by BCDC on ABAG's Environmental Management Task Force. ABAG also agrees to "assist and advise Solano County to ensure integration, to the maximum feasible extent, of the County's Surface Runoff Management Plan and the Suisun Marsh Protection Plan... [and] to ensure, to the maximum feasible extent, in the integration of County Surface Runoff Management Plans and other management plans, that the Environmental Management Plan complements and is compatible with the McAteer-Petris Act, the Bay Plan, the BCDC Management Program for San Francisco Bay, and the Suisun Marsh Protection Plan."

3. Staff Recommendation. The staff recommends the Commission authorize the Executive Director to execute the proposed Memorandum of Agreement for the following reasons:

- a. It provides a desirable general framework within which ABAG and BCDC can carry out their respective responsibilities. Its execution will also remove a potential obstacle to continued Federal funding for BCDC.
- b. It commits ABAG to supporting the efforts of Solano County and BCDC in carrying out the Suisun Marsh Protection Plan. This is particularly important because the recommendations in the Plan relating to the need for controls over creekside development and surface water runoff were specifically developed to complement ABAG's environmental planning efforts. The MOA ensures that, to the maximum extent feasible, these recommendations will be followed by the County and ABAG in preparing the Environmental Management Plan.

MEMORANDUM OF AGREEMENT
BETWEEN
SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION
ASSOCIATION OF BAY AREA GOVERNMENTS

Introduction

This Memorandum of Agreement is entered into by the ASSOCIATION OF BAY AREA GOVERNMENTS, hereinafter "ABAG," an association of cities and counties in the Bay Area formed under the California Joint Exercise of Powers Act; and the SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION, hereinafter "BCDC," a commission established under the McAteer-Petris Act (California Government Code Section 66600 et seq.).

Chapter 1. Relative Roles

The parties to this Memorandum recognize:

1.1 ABAG is established under the Joint Exercise of Powers Act (Government Code Sections 6500-6513) by counties and cities within the San Francisco Bay Region, which includes the City and County of San Francisco and the Counties of Marin, Sonoma, Napa, Solano, Contra Costa, Alameda, Santa Clara, and San Mateo. ABAG is the Federally designated Areawide Planning Organization and Areawide Clearinghouse for this region. It is the agency designated by the State of California to develop an areawide treatment management plan under Section 208 of the Federal Water Pollution Control Act for that area of the nine county Bay region delineated by the California State Water Resources Control Board. It is also recognized by the California Air Resources Board as the agency responsible for preparing the air quality maintenance plan required pursuant to the Clean Air Act for the San Francisco Bay Area Air Basin Air Quality Maintenance Area.

1.2 The McAteer-Petris Act (Government Code Sections 66600-66661) and the San Francisco Bay Plan are the State policy for the conservation and development of the San Francisco Bay segment of the California coastal zone (the area of BCDC jurisdiction). BCDC is a State agency established to carry out both the Act and the Bay Plan through comprehensive planning for and the exercise of regulatory authority over land and water uses within the Bay segment of the coastal zone. BCDC is required by Government Code Section 66631 to cooperate to the fullest extent possible with ABAG and make maximum use of data and information available from other planning programs, including ABAG's. Under the Nejedly-Bagley-Z'berg Suisun Marsh Preservation Act of 1974 is also charged, together with the California Department of Fish and Game, with developing and presenting to the legislature of the Suisun Marsh Protection Plan, to preserve the integrity and assure continued wildlife use of the Marsh. BCDC's management program for San Francisco Bay has been approved by the Department of Commerce as the State management program for the Bay segment of the coastal zone, making BCDC the State agency responsible under the Federal Act for management of this segment of the coastal zone.

Chapter 2. Purposes

This Memorandum of Understanding is being entered into for the following purposes:

2.1 To achieve, to the maximum extent feasible, compatibility between ABAG's planning and management activities, especially activities under the Federal Water Pollution Control Act, as amended, and the Clean Air Act, as amended; and BCDC's planning and management activities, especially activities under the Federal Coastal Zone Management Act of 1972.

2.2 To ensure, to the maximum extent feasible, that the planning and management activities of BCDC and ABAG are complementary, so as to minimize duplication of effort, and promote the efficient use of planning agency resources, and ensure public awareness of the roles of each agency.

Chapter 3. Basic Agreements

3.1 ABAG agrees that:

(a) San Francisco Bay is the most valuable single natural resource in the Bay Area and therefore a regionally significant area of critical environmental concern.

(b) ABAG will make comments consistent with the McAteer-Petris Act, the San Francisco Bay Plan, and the BCDC management program on these projects coming within the purview of any of these.

(c) ABAG will incorporate into the ABAG Regional Plan, to the maximum feasible extent, the findings, policies, and criteria of the McAteer-Petris Act and the San Francisco Bay Plan.

(d) ABAG will also carry out its remaining planning and management activities in a manner that is, to the maximum feasible extent, compatible with and complementary to BCDC's planning and management activities.

3.2 BCDC agrees that:

(a) The ABAG Regional Plan, policy action pursuant to it, and the Environmental Management Plan, result from an extensive planning program and BCDC will use, to the maximum feasible extent, data and information developed by ABAG as part of ABAG's on-going planning and management activities.

(b) BCDC will cooperate with ABAG in developing compatible data on existing and projected conditions in terms of population, population distribution, land use, and economic growth. BCDC will use these projections in its planning and management responsibilities.

(c) BCDC will participate fully in ABAG's environmental planning and management activities and provide ABAG with all information developed by BCDC as part of BCDC's planning and management activities.

(d) BCDC will use the ABAG Regional Plan as a major point of reference for regional concerns related to BCDC's responsibilities.

(e) BCDC will cooperate with ABAG in incorporating into the ABAG Regional Plan, to the maximum feasible extent, the findings, policies, and criteria of the McAteer-Petris Act and the San Francisco Bay Plan.

(f) BCDC will carry out its remaining planning and management activities in a manner that is, to the maximum feasible extent, compatible with and complementary to ABAG's planning and management activities.

Chapter 4. Current Environmental Planning

4.1 ABAG agrees:

(a) That BCDC should participate in preparation of the Environmental Management Plan through membership on the ABAG Environmental Management Task Force, hereinafter "EMTF" (which is responsible for preparation of the Bay Area's Environmental Management Plan). BCDC participation is necessary and desirable (i) because of the close relationship between areawide management planning under Section 208 of the Federal Water Pollution Control Act, as amended, and coastal zone management under Section 306 of the Federal Coastal Zone Management Act,

as amended; and (11) because the work of the EMTF in the following areas could have significant impacts on the BCDC segment of the coastal zone:

(1) Management of surface runoff, especially as it leads to control of sedimentation.

(2) Special studies, including Delta Outflow, Fish Kills, Dredge Disposal, Eutrophication, Contingency Plans, and Effects of Toxicants.

(3) Review of 201 wastewater facilities.

(4) Other non-point sources.

(5) Air quality maintenance planning, particularly in assessing the role of the Bay and marshlands in contributing to air quality.

(6) Industrial discharges.

(7) Water conservation, reuse, and supply.

(8) Solid Waste.

(9) The institutional and financial means to carry out the environmental management plan.

(10) The collection and evaluation of local development policies, especially as they may affect lands located within the BCDC segment of the coastal zone.

(b) To appoint one member of the BCDC to Environmental Management Task Force.

(c) To appoint members of the BCDC staff to such other advisory committees and task forces relating to the preparation of the Environmental Management Plan as BCDC and ABAG mutually agree would be desirable.

(d) To provide BCDC with adequate opportunities to review and comment on reports and other written material prepared for the EMTF prior to consideration by the EMTF.

(e) To assist and advise Solano County to ensure integration, to the maximum feasible extent, of the county's Surface Runoff Management Plan and the Suisun Marsh Protection Plan.

(f) To ensure, to the maximum feasible extent, in the integration of County Surface Runoff Management plans and other management plans, that the Environmental Management/^{Plan}complements and is compatible with the McAteer-Petris Act, the Bay Plan, the BCDC Management Program for San Francisco Bay, and the Suisun Marsh Protection Plan.

4.2 BCDC agrees:

(a) To authorize a member from BCDC to serve on the EMTF.

(b) To authorize members of the Commission and the staff to serve on such other advisory committees and task forces relating to the preparation of the Environmental Management Plan as ABAG and BCDC mutually agree would be desirable.

(c) To review and comment in a timely fashion on reports and written material prepared for the EMTF.

(d) To assist ABAG in developing an Environmental Management Plan that complements and is compatible with the McAteer-Petris Act, the San Francisco Bay Plan, and the BCDC management program for San Francisco Bay.

(e) To assist and advise Solano County to ensure integration, to the maximum feasible extent, of the Suisun Marsh Protection Plan and the county's Surface Runoff Management Plan.

(f) To assist ABAG in developing an Environmental Management Plan that complements and is compatible with the Suisun Marsh Protection Plan by participating in the integration of Solano County's surface runoff management plan with those of other counties, and in the integration of these plans with other portions of the Environmental Management Program.

4.3 Both agencies agree:

(a) To work to carry out any additional guidelines under the 1975 agreement between the Office of Coastal Zone Management and the Environmental Protection Agency, under the 1975 agreement between the Office of Coastal Zone Management and the Department of Housing and Urban Development, and under any other Federal agreements and regulations relating to management of the BCDC segment of the coastal zone.

Date _____

BAY CONSERVATION AND DEVELOPMENT
COMMISSION

By _____

ASSOCIATION OF BAY AREA GOVERNMENTS

By _____

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